HEALTH FINANCE COMMISSION

Legislative Services Agency
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MEETING MINUTES[1]

Meeting Date: September 26, 2000
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., House Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Charlie Brown, Chairperson; Rep. Brian Hasler; Rep. William Crawford; Rep. Susan Crosby; Rep. John Day; Rep. Craig Fry; Rep. Win Moses; Rep. Vaneta Becker; Rep. Robert Behning; Rep. Mary Kay Budak; Rep. David Frizzell; Rep. Gloria Goeglein; Sen. Patricia Miller, Vice-Chairperson; Sen. Greg Server; Sen. Beverly Gard; Sen. Connie Lawson; Sen. Marvin Riegsecker; Sen. Billie Breaux; Sen. Earline Rogers.

Members Absent: Rep. Peggy Welch; Rep. Timothy Brown; Sen. Kent Adams; Sen. Steve Johnson; Sen. Allie Craycraft; Sen. Vi Simpson.

Rep. Brown called the meeting to order at 1:15 P.M.

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[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.ai.org/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Alzheimer's Disease/Dementia

Rep. Becker provided a brief explanation of the Alzheimer's disease/dementia topic under the Commission's study.

Barbara Becker began to testify regarding the poor treatment received by a family member in an Evansville area nursing facility. Rep. Brown asked if the matter she referred to is currently in litigation. Ms. Becker responded affirmatively. Rep. Brown stated that he felt it inappropriate for the Commission to hear testimony on a matter that is currently before a court. At that point, Ms. Becker refrained from testifying.

Sherry Gray, a health care professional, next told Commission members about the need for Certified Nurse Assistants (CNAs) to receive additional training in caring for Alzheimer's patients, especially those experiencing dementia. She presented Commission members with a written version of her testimony entitled "Decreasing Catastrophic Behaviors in Dementia Patients through Staff Education and Training" (see Exhibit 1). Ms. Gray noted that no standards exist for what constitutes aggressive behavior and that CNAs lack standardized training. Rep. Crawford asked Ms. Gray what recommendations she could offer to address this ongoing problem. She replied that it would be best for a group of professionals to establish standards for CNAs and minimal staffing guidelines. She noted that Michigan and Ohio have more advanced group homes to treat Alzheimer's patients than does Indiana. Rep. Crawford asked Ms. Gray for suggestions to address the shortage of nurses. Ms. Gray noted a study that concluded that appropriate training and staff levels lead to increased longevity of staff. Ms. Gray promised to send a copy of the study to staff.

Judy Dockery, the Long Term Care Ombudsman for Vanderburgh County, next addressed the Commission and provided a written copy of her remarks (see Exhibit 2). She asserted that there is currently no placement available for cognitively impaired residents who exhibit behaviors that put themselves and others at risk of injury or death. She argued that adequate staffing levels and appropriate staff training would greatly reduce the number and severity of violent episodes; however, some individuals require special long term placement in a setting that does not currently exist. She noted that several nursing facilities accept as residents individuals whose behavior cannot be controlled. Often, these residents are shuttled from hospital to nursing home to short term acute care psychiatric units to a different nursing home, etc., without ever receiving appropriate care and services to meet their need. Ms. Dockery provided Commission members with several specific examples of her contentions. She asserted that a thorough study must be conducted to develop and provide appropriate services and settings to meet the needs of cognitively impaired residents whose actions put themselves and others in danger of injury or death. In response to a question from Rep. Brown, Ms. Dockery stated that placing cameras in residents' rooms would be permissible with the full consent of each resident.

Arlene Franklin, the State Long Term Care Ombudsman, testified next and presented a written copy of her testimony to Commission members (see Exhibit 3).

She noted that most individuals with dementia who exhibit problem behaviors in nursing facilities are not having their needs met. She stressed that there must be a place where all individuals who need nursing home care can have both their medical and quality of life needs supported at the highest level possible. She asserted that the state must encourage the development of care settings that are appropriate to persons with dementia, including those who exhibit aggressive behaviors. Ms. Franklin noted that while many facilities boast of having "special care units", many of those units are not special and not truly equipped or staffed to handle residents with dementia. She stated several specific proposals endorsed by the Long Term Care Ombudsman Program and other advocacy groups. Responding to Rep. Brown's question regarding the placement of cameras in residents' rooms, Ms. Franklin asked what would happen in the case of two residents in a room when one resident consents to having the camera but the other resident does not.

Doug Starks of the Alzheimer's Association next presented testimony before the Commission. He noted that several groups had come together over the past four months to form a task force to deal with this issue to ask what the problem is and what the potential solutions might be. He asserted that the problem of Alzheimer's and other nursing facility residents with dementia is deep and systemic and involves at least fifteen issues, including staffing, training, and pre-admission screening. He advocated the formation of a task force by the Governor or legislature staffed by the Department of Health or the Family and Social Services Administration to look at this issue in total. Mr. Starks stated that he helped work on the issue of special care unit disclosure forms during the General Assembly's last session, but that many problems still exist and much inaccurate information has been provided. He asserted that the form itself has some inaccuracies as well. Part of the problem is that special care units cover all kinds of dementia, not just that associated with Alzheimer's disease. He asked the Comission to consider enacting legislation to establish a task force to look into this problem in depth.

Dr. Hugh Hendrie, Professor of Psychiatry and Co-Director of the Alzheimer's Clinic at the Indiana University School of Medicine next addressed the Commission. He noted that 2/3 of dementia patients have violent or otherwise disturbing incidents and suffer from much agitation. Most dementias are problems with the individual's brain and thus judgment, reasoning, and thinking are affected. In order to properly treat the problem, the brain dysfunction must be alleviated and the problem of the individual's context producing the agitation or violence must be resolved. He noted that both drug and non-drug interventions exist. Dr. Hendrie agreed with those who previously testified that establishing a task force to examine this problem is crucial, as is the need to get nursing facility systems and health care systems to work together. In response to questions from Rep. Hasler, Dr. Hendrie estimated that 80% of nursing home residents have some form of dementia, and that 80% of that population had agitation, so the problem is very common. He argued that placing cameras in residents' rooms would only work as a "bandage" and not a true solution to the problem.

Jim Leich, president of the Indiana Association of Homes and Services for the Aging, told Commission members that good special care units exist at some

nursing facilities, but that some individuals can't be helped even with special units, good staff training, etc. He agreed with others that a high level task force should be formed to look at this specific issue. Mr. Leich argued that there are financial considerations for treating residents with dementia under the case-mix reimbursement system. Reimbursement for treating dementia residents is too low, and a recent study verified that problem. When the case-mix rates are renegotiated this fall, all sides must look at that issue closely. In response to Rep. Crawford's question, Mr. Leich noted that no other state level task force had looked specifically at the dementia issue. Responding to Rep. Goeglein's question, Mr. Leich briefly explained the case-mix reimbursement system and noted that the case-mix categories don't capture all the time and effort that goes toward treating certain residents.

Dr. W.T. Murphy from the Franklin United Methodist Community provided Commission members with a copy of the design development report from the Franklin United Methodist Home (see Exhibit 4). He told Commission members that those organizing the special care unit at the Methodist home traveled to other centers and attended a conference to determine the best design for the Methodist Home unit. An architectural firm designed the unit based on this information as well as interviews with all staff. When the new unit opened, several patients from the old locked dementia unit were moved to the new unit, and the caretakers noticed a significant change in behavior among those transferred patients. He mentioned various aspects of the unit such as height of nurse's stations and the ability to go outside, all conducive to more diagnosis specific care of Alzheimer's patients.

Dotty Plummer, Director of the Special Care Unit at the Franklin United Methodist Community, told Commission members that the unit opened in 1992, with different areas for early disease and advanced disease. She noted that staff was required to have ten hours of special training, that the community kept a psychiatrist on staff, and that the unit had a unique open design so that residents would not be on top of each other. Other unique aspects of the unit include a support group for residents' families, that family members participate in care plans, and that there is flexible scheduling of staff members.

Sen. Miller asked how much the unit charges per person. Dr. Murphy responded that, depending on age, the entry fee for residents is $20,000 to $35,000. Residents then pay $2,000 to $3,000 per month depending on the stage of disease, whether they live in a private room or semi-private room, etc. Sen. Miller noted that Medicaid is not funding any part of the unit. In response to Rep. Crawford's question, Ms. Plummer noted that 19 of 23 spaces in the unit are currently occupied, all with private pay individuals with one exception for a benevolent care program person. Rep. Crawford asked what the typical cost to Medicaid would be in a nursing facility. Mr. Leich stated $27,000 to $30,000 per year. While the per year cost is cheaper at the Franklin unit, Sen. Miller reminded members to recall the up-front costs.

Faith Laird from the Indiana Health Care Association (IHCA) told Commission members that IHCA supports specialized training of CNAs and that IHCA is working with advocacy groups and the Department of Health to discuss various topics and make presentations around the state. She noted that provider

associations have made these issues known in the past, that the facilities IHCA represents must abide by federal law, and that the Alzheimer's Task Force or a new group should focus on this problem.

Sen. Server concluded the testimony on this issue by telling Commission members that he authored the resolution to study the issue because of the ongoing problems he had heard about in Evansville. He asserted that this is a growing problem with the aging population and that additional training and more special units are needed. He agreed with others who testified that there is a need to put a group together to establish standards and determine appropriate reimbursement for providing care to residents with dementia. Rep. Budak noted that several groups appear to be studying these issues and should integrate their efforts.

Immunization Data Registry

Rep. Budak stressed the need for this registry in Indiana. She presented Commission members with two handouts containing a variety of information regarding such registries (see Exhibits 5 and 6). She noted that it costs $3.91 per child per year to maintain the registry, but $14.50 per child per year to maintain immunization data on each child per year without the registry. She asserted that the registry also helps children to avoid receiving immunizations that they do not need.

Joni Albright, Assistant Commissioner for Public Health Services for the Indiana Department of Health (IDOH), stated that the goal is to increase the number of children from birth through age two to receive appropriate immunizations at the right time. She noted that the registry is an electronic record that is easily updated and tells providers when a child's next immunizations are due. The registry allows reports to be easily run that provide information such as the percent of children in the target age group who are immunized. She added that while many counties have such a registry, one does not exist statewide. Ms. Albright then briefly discussed logistical matters such as funding for the registry and the need for more participation from the private sector. In response to a question from Rep. Goeglein, Ms. Albright indicated that IDOH developed an immunization data registry for Allen County. Responding to Rep. Hasler's question, Ms. Albright discussed registries requiring parents to opt into the system vs. those that require parents to opt out of the system. She then responded to Sen. Server's question by briefly explaining what types of information are included in the registry such as type of vaccine, lot number, adverse reactions, and distribution. Sen. Server stated that he heard about a possible connection between autism and certain vaccinations.

Susan Preble, Legislative Liaison from the Family and Social Services Administration, presented Commission members with a copy of a letter to State Medicaid Directors regarding funding for immunization registries (see Exhibit 7). She indicated that funding is available to establish and operate a registry, with the federal government paying 90% of costs to establish the registry (with the state paying the other 10% of costs) and the federal government paying 75% of costs to operate the registry (with the state paying the other 25% of costs).

Rep. Brown asked staff to arrange for the Family and Social Services Administration to provide an update at the Commission's October 10th meeting regarding the spending of funds from the national tobacco settlement.

Health Facilities and HEA 1124-2000

Rep. Day asked Commission members to consider overriding the Governor's veto of HEA 1124-2000 (see Exhibit 8). He suggested, as the bill stated, that a portion of the fines levied against nursing facilities be placed in a fund established by the bill to be used for staff training. He reported that the Governor vetoed the bill because the governor believed that nursing facilities alone should be responsible for training their staffs and that public money should not be used for that purpose. Rep. Day noted that the total state money involved would be $104,000.

Odell Groce provided Commission members with a handout describing treatment his wife received at a particular nursing home (see Exhibit 9) and a copy of a letter he received from the Indiana State Department of Health regarding his complaint allegation against the nursing home (see Exhibit 10). He emphasized that the state cannot depend on nursing homes to do all of their own staff training and that more training is needed. He complained that tasks have often been performed at a staff member's convenience rather than when such tasks are required to be performed.

Veronica Davidson provided Commission members with a written copy of her remarks (see Exhibit 11). Ms. Davidson is a nurse, and she told Commission members that her nursing experiences have been largely negative due to a lack of minimum staffing laws in nursing homes. She indicated that the ratio of residents to nurses has been as high as 56:1; this has led to many accidents, residents losing weight, bedsores, etc. due to inadequate staffing. She noted that her experiences covered different positions in different cities throughout the state, so understaffing is a widespread problem. She implored Commission members to establish minimum staffing laws as a necessity for the health, dignity, and welfare of long term care residents.

Katherine Folland , ombudsman for Area 8, provided Commission members with a written copy of her testimony (see Exhibit 12). She agreed with previous testimony regarding the widespread problem of understaffing and lack of training for nursing home staff. She noted that she has current and past roles intersecting with nursing homes, as an ombudsman, a former certified nursing assistant, a former Director of Social Services for a nursing home, and the family member of a nursing home resident, and has seen the problems created by understaffing in each of those roles. Rep. Day asked what the ideal ratio of nurses to residents would be. Ms. Folland indicated that one nurse to every five residents would be ideal but that currently it is not unusual for a certified nurse assistant to care for 35-50 residents per shift. In response to Rep. Goeglein's question, Ms. Folland stressed the necessity of filling all positions at nursing facilities and noted that facilities with staffing shortages are not being forced to close. She asserted that greater training of staff will lead to less staff turnover. She agreed with Rep. Becker's comment that, if the state passed a law requiring minimum staffing ratios,

the law would need to provide a strong penalty for failing to maintain the minimum staff; however, she stopped short of arguing that a facility should be closed if it didn't meet the statutory staffing levels. She did not know if the reimbursement rates currently paid to nursing facilities constitute part of the staffing problem. In response to Sen. Miller's question, Ms. Folland stated that she would serve again as a certified nurse assistant because she is devoted to providing good care to nursing facility residents.

Richard Adams presented Commission members with a lengthy document containing three subjects: (1) Long term care staffing problems we choose not to talk about; (2) Indiana's system of long term care is failing to protect the lives of its residents; and (3) Supporting documentation for a complaint filed with long term care division, Indiana Department of Health (see Exhibit 13). He testified on each of these matters, discussing specifically the problems experienced by his mother-in-law and mother in nursing facilities. He argued that the turnover of certified nurse assistants is too high and prevents family members from getting to know those individuals providing most of the direct care to residents. He stressed the need for greater staff training.

Robyn Grant, Manager of Resident Advocacy Services at Severns & Bennett, P.C., provided Commission members with a written copy of her testimony (see Exhibit 14). She indicated that understaffing in nursing facilities is not a new problem, but that to date, it has not been possible to pass legislation establishing minimum staffing levels in the facilities. She stressed that there is a strong correlation between the level of staffing and the quality of care that residents receive. In Indiana, however, 84% of facilities do not provide the suggested minimum of two hours of nursing assistant time per resident per day. Ms. Grant argued that the legislature should establish minimum staffing ratios that would not include a provision for closing a facility the first time it failed to meet the statutory staffing guidelines. She mentioned that most staff leave a facility due to working conditions such as short staffing. In response to Rep. Behning's question, Ms. Grant stated that CNAs make $7-8 per hour. Mr. Leich indicated that the statewide average for CNAs is closer to $9-11 per hour. Rep. Behning noted that it is not easy to find people to fill CNA positions in a tight labor market. Ms. Grant replied that the shortage of CNAs is not a new problem and that working in a nursing home must be made more attractive, not just in terms of money. She indicated that a law requiring minimum staffing ratios could be phased in over a period of time. In response to Rep. Budak's question, Ms. Grant stated that she was not aware of a program where the state would forgive student loans as an incentive to work in nursing homes, but agreed that the idea has merit.

Paul Severance with United Senior Action noted that the understaffing problem is very complex. He stressed that the key issue is to follow the money, that is, that current reimbursement rates paid to nursing facilities are inadequate and that the current reimbursement system provides an incentive to provide fewer staff than the median rate of all nursing facilities. He argued that the state should not pay as much for poor care as it does for good care and that the state should tie quality of care to how much a facility is paid. Mr. Severance asserted that a Governor's level commission should be established to study staffing levels in nursing facilities, home care, and hospitals. He also noted that, while federal law

required one long term care ombudsman for every 2,000 residents, Indiana has one ombudsman for every 5,000 residents. Mr. Severance, Rep. Brown, and Rep. Behning then briefly discussed Mr. Severance's idea of tying reimbursement to the quality of care a facility provides.

Jim Leich testified that staffing is a major issue. He noted that Indiana has a crisis in the making as the average CNA and Registered Nurse is 45 years old. He argued that greater incentives are needed to fully staff nursing facilities. He agreed with Mr. Severance's suggestion of establishing a Governor's level commission to study this issue since it applies to areas such as higher education as well as health care. Mr. Leich expressed concerns about establishing staffing mandates and argued that broader issues need to be addressed. Regarding HEA 1124-2000, Mr. Leich indicated that the federal government is imposing more fines on nursing facilities, so the state would probably not receive the $104,000 that Rep. Day anticipated from the state imposing fines. He argued that a quality improvement fund is needed, but that it should be funded through government appropriations rather than by fining nursing facilities. He stressed that whatever entity performs informal dispute resolution needs to be more independent and accountable and needs to look at underlying documentation. He disagreed with Rep. Day about the need to override the Governor's veto of the bill because he believes that little money will end up in the staff training fund. Rep. Day and Mr. Leich briefly discussed the fund. Rep. Hasler asked if Mr. Leich's members receive health care benefits. Mr. Leich indicated that many do, but that most CNAs don't participate due to costs. Faith Laird of the IHCA agreed that most CNAs opt out if required to pay any portion of the premiums for health care. In response to other questions put forth by Rep. Hasler, Mr. Leich stated that CNAs receive a minimum of 30 hours of classroom training and 75 hours of clinical training and are required to complete 12 hours of continuing education annually. He agreed with Rep. Hasler that establishing a loan forgiveness program would be a good idea.

Rep. Day reiterated that the General Assembly should override the Governor's veto of HEA 1124-2000 in order to establish the concepts in the bill and make changes later as are necessary.

Rep. Brown reminded Commission members that the Commission's next meeting will be held on October 10th at 1:00 P.M. in the House Chambers. He then adjourned the meeting at 4:05 P.M.